

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *Wle* D.C.

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THOMAS H. GOULD
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE

GREGORY BRAY,

Plaintiff,

vs.

No. 04-2626-Ma/P

DR. GERALD STIPANUK, et al.,

Defendants.

X
X
X
X
X
X
X
X
X
X
X
X

ORDER GRANTING PLAINTIFF'S MOTION FOR A TRIAL BY JURY

Plaintiff Gregory Bray, Tennessee Department of Correction prisoner number 128878, who is currently an inmate at the Northwest Correctional Complex in Tiptonville, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983 on August 9, 2004 in connection with his previous confinement at the Shelby County Criminal Justice Center ("Jail"), where his booking number was 04102539. The Court issued an order on December 30, 2004 that, inter alia, dismissed certain claims and defendants, pursuant to 42 U.S.C. § 1997e(a), for failure to exhaust and directed the Clerk to issue process for, and the marshal to effect service on, the remaining defendants, Dr. Gerald Stipanuk, Medical Administrator Tony Cooper, Nursing Director Lyle Reece (who is named in the complaint as "L. Reese"), and Shelby County. On February 24, 2005, before the defendants had filed a response to the complaint, the plaintiff filed a motion seeking to amend his complaint to include

a jury demand. The defendants did not respond to this motion,¹ but the answer of the individual defendants, which was filed on March 24, 2005, included a jury demand.

Rule 38(b) of the Federal Rules of Civil Procedure provides:

Any party may demand a trial by jury of any issue triable of right by a jury by (1) serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue, and (2) filing the demand as required by Rule 5(d). Such demand may be indorsed upon a pleading of the party.

As plaintiff has timely served a jury demand, his motion is GRANTED.

IT IS SO ORDERED this 9th day of December, 2005.



SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT JUDGE

¹ The certificate of service on plaintiff's motion indicates it was mailed to the individual defendants, rather than to their attorneys. An examination of the docket sheet indicates that, at the time plaintiff submitted his motion, he may not have known the identity of the attorneys representing the defendants.



Notice of Distribution

This notice confirms a copy of the document docketed as number 114 in case 2:04-CV-02626 was distributed by fax, mail, or direct printing on December 14, 2005 to the parties listed.

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Honorable Samuel Mays
US DISTRICT COURT